

**STATE OF RHODE ISLAND
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
PUBLIC NOTICE OF PROPOSED RULE-MAKING**

In accordance Rhode Island General Laws (RIGL) 42-35, notice is hereby given that the Executive Office of Health and Human Services proposes to amend the following OHHS rule:

**MEDICAL ASSISTANCE PROGRAM
SECTION 0362: INCOME GENERALLY**

The following standards were implemented under emergency rule making January 1, 2012 to ensure the standards were in compliance with state and federal guidance. This proposed rule is being filed under regular rule making provisions to sustain revisions in the EOHHS MA rules. The Medical Assistance rules are amended to reflect the following statutory increases: 1) the cap on the Monthly Maintenance Needs Allowance is \$2,841; 2) the Minimum Protected Resource Amount is \$22,728; 3) the Maximum Protected Resource Amount is \$113,640; and 4) the federal cap for institutionalized individuals is \$2,094. The medically needy income limits are increased pursuant to R.I.G.L. 40-8-3.

In the development of these rules, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information.

In Accordance with RIGL 42-35-3, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

This proposed rules is accessible on the R.I. Secretary of State website (<http://www.sec.state.ri.us/ProposedRules/>) and the OHHS website (www.ohhs.ri.gov) or available in hard copy upon request (401 462-2018 or RI Relay, dial 711). Interested persons should submit data, views or written comments by Monday, February 20, 2012 to Kimberly Merolla-Brito, Office of Policy Development, RI Department of Human Services, Louis Pasteur Building, 57 Howard Avenue Fl # 1, Cranston, RI 02920.

The Executive Office of Health and Human Services does not discriminate against individuals based on race, color, national origin, sex, gender identity or expression, sexual orientation, religious belief, political belief or handicap in acceptance for or provision of services or employment in its programs or activities.

0362

INCOME GENERALLY

0362.05

INCOME STANDARDS - INDIVIDUAL/COUPLE

REV: ~~07/2011~~03/2012

The following standards are used in the determination of an individual's or couple's income eligibility:

- o ~~2009-2012~~ Monthly Federal Benefit Rate (FBR);
- o Categorically Needy Income Limits;
- o Medically Needy Monthly Income Limits;
- o 2011 Federal Poverty Level Income Guidelines (for Low Income Aged and Disabled Individuals, Qualified Medicare Beneficiaries, Specified Low Income Medicare Beneficiaries and Qualified Disabled and Working Individuals).

~~2009-2012~~ MONTHLY FEDERAL BENEFIT RATE (FBR)

INDIVIDUAL - OWN HOME	\$ 674.00 <u>698.00</u>
COUPLE - OWN HOME	\$ 1,011.00 <u>1,048.00</u>
INDIVIDUAL - HOME OF ANOTHER	\$ 449.34 <u>465.34</u>
COUPLE - HOME OF ANOTHER	\$ 674.00 <u>698.67</u>

"DIFFERENCE BETWEEN"

COUPLE AND INDIVIDUAL - OWN HOME	\$ 337.00 <u>350.00</u>
COUPLE AND INDIVIDUAL - HOME OF ANOTHER	\$ 224.66 <u>233.33</u>

"DOUBLE THE FBR"

INDIVIDUAL - OWN HOME	\$ 1,348.00 <u>1,396.00</u>
INDIVIDUAL - HOME OF ANOTHER	\$ 898.68 <u>930.68</u>
COUPLE - OWN HOME	\$ 2,022.00 <u>2,096.00</u>
COUPLE - HOME OF ANOTHER	\$ 1,348.00 <u>1,397.34</u>

CATEGORICALLY NEEDY NET MONTHLY INCOME LIMITS FOR AGED, BLIND, OR DISABLED INDIVIDUALS/COUPLES

INCOME LIMITS	INDIVIDUAL	COUPLE
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Living in a Nursing Facility or ICF-MR Facility		\$
2,022.00 <u>2,094</u> **	N/A	
Living in Own Household	\$ 713.92 <u>737.92</u>	\$ 1,127.38 <u>1,090.38</u>
Living in Household of Another	\$ 501.26 <u>517.26</u>	\$ 771.30 <u>795.97</u>
Living in a Residential Care and Assisted Living Facility		\$
2,022.00 <u>2,094.00</u> **	**Treat as Individual	

Institutionalized Individual eligible for the Federal and State Supplement \$ 50.00 \$ 100.00

** By Federal Law, to be eligible as Categorically Needy while living

in a Nursing Facility, ICF-MR Facility or a licensed Residential Care and Assisted Living Facility, an individual's gross income cannot exceed 300% of the Federal SSI level of payment for an individual.

This is the FEDERAL CAP which is \$~~2,022,094~~ effective 01/01/~~2009~~2012.

TABLE OF MEDICALLY NEEDY MONTHLY INCOME LIMITS

1 Person	\$ 800.00 <u>825.00</u>	5 Persons	\$ 1,325.00 <u>1,375.00</u>
2 Persons	842.00 <u>867.00</u>	6 Persons	1,492.00 <u>1,542.00</u>
3 Persons	1,033.00 <u>1,075.00</u>	7 Persons	1,642.00 <u>1,700.00</u>
4 Persons	1,175.00 <u>1,225.00</u>	8 Persons	1,808.00 <u>1,875.00</u>

2011 FEDERAL POVERTY LEVEL MONTHLY INCOME GUIDELINES

100% of FEDERAL POVERTY LEVEL INCOME GUIDELINES FOR QUALIFIED MEDICARE BENEFICIARIES (QMB's) AND LOW-INCOME AGED AND DISABLED.

INDIVIDUAL	\$ 907.50
COUPLE	\$ 1,225.83

120% of FEDERAL POVERTY LEVEL INCOME GUIDELINES FOR SPECIFIED LOW-INCOME MEDICARE BENEFICIARIES (SLMB's).

INDIVIDUAL	\$ 1,089.00
COUPLE	\$ 1,471.00

135% of FEDERAL POVERTY LEVEL INCOME GUIDELINES FOR QUALIFIED INDIVIDUALS (QI-1)

INDIVIDUAL	\$ 1,225.13
COUPLE	\$ 1,654.88

200% of FEDERAL POVERTY LEVEL INCOME GUIDELINES FOR QUALIFIED DISABLED AND WORKING INDIVIDUALS (QDWI's).

INDIVIDUAL	\$ 1,815.00
COUPLE	\$ 2,451.67

0362.10 INCOME DEFINITIONS

REV:06/1994

Income is anything received in cash or in-kind that can be used to meet the needs for food, clothing or shelter. In-kind income is not cash, but is actually food, clothing, or shelter, or something the individual can use to get one of these. Earned and unearned income is considered when determining an individual's and couple's financial eligibility.

0362.10.05 Earned Income

REV:06/1994

Earned income may be in cash or in-kind and consists of the following types of payments:

- o Wages;
- o Net earnings from self employment;
- o Payments or refunds of earned income tax credits;
- o Payments for services performed in a sheltered workshop or work activity.

Earned income is counted as earned income when received (or would have been received except that the applicant/recipient decided to postpone receipt) rather than when earned. This recognizes that the time between earning and receiving income sometimes is long.

In a program based on the current need, the relevant time is when income is received.

0362.10.10 Unearned Income

REV:06/1994

Unearned income is defined as all income that is not earned income whether cash or in-kind. Some types of unearned income are:

- o Deemed income;
- o Income from legally liable relatives;
- o Workers' Compensation;
- o Annuities, pensions, and other periodic payments;
- o Alimony and support payments;
- o Dividends, interests and royalties;
- o Rents;
- o Benefits received as the result of another's death to the extent that the total amount exceeds the expenses of the deceased person's last illness and burial paid by the recipient;
- o Prizes and awards;
- o In-kind support and maintenance (ISM);
- o Life insurance proceeds; and,
- o Gifts and inheritances.

0362.10.15 Forms of Income

REV:06/1994

Income, whether earned or unearned, may be received in either of two forms, cash and in-kind.

- o Cash includes currency, checks, money orders, or electronic funds transfers (EFT), such as:
 - social security checks;
 - unemployment compensation checks; and,
 - payroll checks or currency.
- o In-kind includes noncash items such as:
 - real property;
 - food;
 - clothing; and,
 - noncash wages (e.g., room and board as compensation for employment).

0362.10.20 Living in Own Household, Definition

REV:06/1994

The following is a list of individuals living in their own households:

- o An individual (or living-with spouse or any person whose income is deemed to the individual) who has an ownership interest or a life estate interest in the home;
- o An individual (or living-with spouse or any person whose income is deemed to the individual) who is liable to the landlord/landlady for payment of any part of the rental charges;
- o An individual who is in a noninstitutional care situation;
- o An individual who lives in an all-public assistance household; or,
- o An individual who pays at least a pro rata share of household operating expenses, AND
 - is living with someone other than a spouse and/or child(ren) and/or someone whose income is deemable to such individual, AND
 - is eating meals which s/he did not purchase separately.

0362.10.20.05 *Proof of Pro Rata Share*

REV:06/1994

If the applicant claims that s/he is contributing to the household, his/her pro rata share is established by averaging the monthly household operating expenses over the past 12 months and dividing by the number of persons in the household, regardless of age. If exact figures are unavailable, a reasonable estimate is used, considering current expenses and seasons of the year.

The household expenses to be considered, provided someone outside the household does NOT pay for them, are:

- o Real Property Taxes
- o Sewer
- o Garbage Removal
- o Food
- o Rental Payments
- o Mortgage (including property insurance)
- o Water
- o Heating Fuel
- o Gas
- o Electricity

0362.10.20.10 *Documentation of Sharing*

REV:06/1994

The applicant must submit evidence of sharing. This includes bills and receipts which establish the household expenses, and canceled checks or money order receipts which establish the applicant's contributions. When such evidence is not available, statements from the applicant and the person who owns or rents the household are accepted. Copies of all supporting documents are retained in the case record.

The applicant must be advised to retain future bills/receipts in the event a redetermination is required because changes occur, or because s/he wants to rebut one or more of the amounts used in determining the household expenses.

When a change does occur, it is only necessary to determine what is affected by the change. For example, if the only change is in household composition, only the food expense will increase or decrease. If the individual's contribution has decreased, a determination must be made that the lower contribution still constitutes a pro rata share.

0362.15 WHEN INCOME IS COUNTED

REV:06/1994

Generally, income is counted at the EARLIEST of the following points:

- o When it is received; or,
- o When it is credited to an individual's account; or,

- o When it is set aside for his/her use.

Income is determined monthly and counted in the month it is received.

Occasionally, a regular periodic payment (e.g., wages, title II, or VA benefits) is received in a month other than the month of normal receipt. As long as there is no intent to interrupt the regular payment schedule, the funds are considered to be income in the normal month of receipt.

0370.15.45 Chart of RSDI COLA

REV:01/2009

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~~RSDI COST-OF-LIVING ADJUSTMENTS (COLAs)~~

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~~PERCENTAGE OF~~

~~DATE INCREASE~~

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~~July 1, 1977 5.9%~~

~~July 1, 1978 6.5%~~

~~July 1, 1979 9.9%~~

~~July 1, 1980 14.3%~~

~~July 1, 1981 11.2%~~

~~July 1, 1982 7.4%~~

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~~January 1, 1984 3.5%~~

~~January 1, 1985 3.5%~~

~~January 1, 1986 3.1%~~

~~January 1, 1987 1.3%~~

~~January 1, 1988 4.2%~~

~~January 1, 1989 4.0%~~

~~January 1, 1990 4.7%~~

January 1, 1991**	5.4%
January 1, 1992	3.7%
January 1, 1993***	3.0%
January 1, 1994**	2.6%
January 1, 1995**	2.8%
January 1, 1996**	2.6%
January 1, 1997**	2.9%
January 1, 1998**	2.1%
January 1, 1999**	1.3%
January 1, 2000**	2.5%
January 1, 2001**	3.5%
January 1, 2002**	2.6%
January 1, 2003*****	1.4%
January 1, 2004	2.1%
January 1, 2005	2.7%
January 1, 2006	4.1%
January 1, 2007	3.3%
January 1, 2008	2.3%
January 1, 2009	5.8%

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~~* No COLA in 1983~~

~~** Federal payment level only.~~

~~*** State share reduced to 1990 level.~~

~~**** Federal share increased; State share reduced,
resulting in no change to combined SSI payment levels.~~

~~0372.05 MEDICARE PREMIUM PAYMENT PROGRAM~~

~~REV:03/2011~~

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~~A. Medicare is the federal health insurance to which individuals who
are insured under the Social Security system are entitled once they
attain 65 years of age or reach the 25th month of a permanent and
total disability. Medicare is also available to individuals who
have permanent kidney failure and individuals who received a kidney
transplant. Medicare has two parts:~~

~~1. Part A Medicare Insurance~~

~~a. Pays for hospital services and limited Skilled Nursing
facility services~~

~~b. Is available without charge to individuals who are insured
under Social Security or Railroad Retirement systems and who
have attained 65 years of age or have reached the 25th month
of a permanent and total disability~~

~~c. Is available without charge to certain individuals who
receive continuing dialysis for permanent kidney failure and
certain individuals who have had a kidney transplant~~

~~d. Is also available to aged or disabled individuals who are
not insured under the Social Security System for a premium~~

~~—amount determined by the Social Security Administration~~

~~2. Part B Medicare Insurance~~

~~—a. Pays for physician services, durable medical equipment and
—other outpatient services~~

~~—b. Is available to both "insured" and "uninsured" individuals
—who have attained 65 years of age or have reached the 25th
—month of a permanent and total disability upon payment of a
—monthly premium.~~

~~—c. The Part B premium as of January 1, 2011 is \$115.40 for
—timely enrollees.~~

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~~B. Enrollment~~

~~—1. Individuals who receive Social Security or Railroad Retirement
—benefit payments are automatically enrolled in Medicare when
—they turn 65 or reach their 25th month of disability.~~

~~—2. Individuals who need to apply for enrollment in Medicare include
—those who:~~

~~—a. Have not applied for Social Security or Railroad Retirement
—Benefits~~

~~—b. Were involved in certain Government employment~~

~~—c. have kidney failure/kidney transplant.~~

~~—3. The initial enrollment period is a seven-month period that
—starts three (3) months before the individual first meets the~~

~~— requirements for Medicare. Individuals who do not enroll in the~~
~~— initial enrollment period may enroll in the general enrollment~~
~~— period, held each year from January 1 through March 31.~~

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~~C. In accordance with federal law, limited Medical Assistance is~~
~~— provided to low-income Medicare beneficiaries. This limited~~
~~— coverage helps eligible individuals pay for some or all of their~~
~~— out-of-pocket Medicare expenses. There are four (4) categories of~~
~~— Medicare Premium Payment Program Benefits:~~

- ~~— 1. Qualified Medicare Beneficiary (QMB)~~
- ~~— 2. Specified Low Income Medicare Beneficiary (SLMB)~~
- ~~— 3. Qualifying Individual-1 (QI-1)~~
- ~~— 4. Qualified Disabled Working Individual (QDWI)~~

~~0380.40.15 — Community Spouse Resource Allowance~~

~~REV:01/2009~~

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~~The community spouse resource allowance, to the extent such resources~~
~~are available, is equal to the greater of:~~

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~~— O — \$21,912; or,~~

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~~— O — The spousal share, up to a maximum of \$109,560.~~

~~0380.40.20 — Community Spouse Resource Allowance Examples~~

REV:01/2009

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~~BRADLEY Example:~~

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~~Mr. Bradley becomes institutionalized on October 20, 2007. His community spouse requests an initial evaluation of total joint resources and the spousal share. The initial evaluation results in a finding that the Bradley's have total joint resources (as of 10/01/07) in the amount of \$250,000 (joint bank accounts of \$145,000, stocks owned solely by Mrs. Bradley of \$82,000 and non-home real estate, vacant land, owned solely by Mr. Bradley with a Fair Market Value of \$23,000). The spousal share is \$125,000.~~

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~~The Bradley's are apprised via MA-3 of these findings.~~

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~~An application for Medical Assistance is not filed for 22 months, until July 29, 2009.~~

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~~A second evaluation of total joint resources is conducted to establish total joint resources as of the month of application.~~

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~~As of the first moment of July 2009, total joint resources amount to \$128,000 (non-home real estate with an appreciated value of \$31,000; Mrs. Bradley's stock with an appreciated value of \$87,000; joint bank account of \$10,000).~~

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~~Although the spousal share is \$125,000, the community spouse resource allowance for Mrs. Bradley is capped at \$109,560 (the greater of \$21,912 or the spousal share up to a maximum of \$109,560). Mr.~~

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~~Bradley's countable resources are \$23,600 and he is ineligible for Medical Assistance.~~

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JONES Example:

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~~Mrs. Jones, age 74, applies for Medical Assistance on April 20, 2009.~~

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~~She became institutionalized on November 3, 2008 when she was placed in a NF directly from her community residence.~~

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~~Neither she nor her community spouse requested an evaluation of total joint resources at that time. To establish Mrs. Jones' countable resources for eligibility determination purposes, two evaluations of total joint resources are completed. The first to determine total joint resources as of the first moment of the month of institutionalization, November 1, 2008 (so that the spousal share can be established); the second to determine total joint resources as of the first of the month of April, 2009 (so that the community spouse resource allowance for Mr. Jones, and thus Mrs. Jones' countable resources can be determined).~~

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~~As of November 1, 2008, Mr. and Mrs. Jones' total joint resources are determined to be \$39,000 (consisting of joint checking and savings accounts totaling \$7,500 and jointly held stocks with a fair market value of \$31,500). The spousal share is consequently \$19,500.~~

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~~As of April 1, 2009, the total joint resources of the Jones' amounted to \$26,052 (joint bank accounts of \$7,052, and jointly held stocks with a~~

~~fair market value of \$19,000, the value decreased as a result of a decline in share price and liquidation of some shares to help pay for costs of care). Mrs.~~

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~~Jones' countable resources amount to \$4,140 (total joint resources at the time of application) less the community spouse resource allowance (the greater of \$21,912 or the spousal share up to \$109,560: $\$26,052 - \$21,912 = \$4,140$). Mrs. Jones would be ineligible for the month of April, except that \$2,500 was paid toward the cost of care for April on April 15th. This documented allowable expenditure reduces excess resources to within the limit. Based on resources, Mrs.~~

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~~Jones is eligible effective April 1st. She is otherwise eligible, and is certified for Medical Assistance effective April 1. She has already paid for her institutional care for the month of April, however, so no vendor payment can be made for the month of April.~~

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~~In May of 2009 Mr. and Mrs. Jones separate the funds in their accounts to reflect the above attribution of resources. On June 10th, Mrs.~~

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~~Jones receives an inheritance of \$50,000. The resource is hers alone—none is attributed to Mr. Jones. Mrs. Jones is determined ineligible for Medical Assistance effective July 1.~~

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SMITH Example:

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~~Mr. Smith, age 79, is placed in an NF on June 15, 2009, subsequent to a hospitalization which began on February 24, 2009.~~

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~~He required acute care hospitalization from February 24th through March 28th, was on Administratively Necessary Days from March 29th through the end of his hospital stay. He applies for Medical Assistance on April 20th, from the hospital, while pending placement. His continuous period of institutionalization begins February 24th. The retroactive period encompasses the day that begins a continuous period of institutionalization, and medical expenses for which Medical Assistance is requested have been incurred in that retroactive month.~~

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~~Consequently, only one evaluation of total joint resources is conducted to determine the spousal share and countable resources. The LTC/AS worker evaluates the resources of Mr.~~

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~~Smith and his community spouse as of the first moment of February. The total joint resources are \$21,108 comprised entirely of a checking and savings account owned solely by Mr.~~

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~~Smith). The spousal share is \$10,554. Mr. Smith's countable resources as of February 1st are \$804 (total joint resources of \$21,108 less the community spouse resource allowance \$21,912 {the greater of \$21,912 or the spousal share}).~~

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~~Mr. Smith is otherwise eligible, and is certified for Medical Assistance beginning February 1, 2009.~~

0380.45.15 — Examples of Resource Reduction

REV:01/2009

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The following are hypothetical cases involving resource reductions:

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~~O MR. M files an application on 7/21. As of 7/1, he has a savings account of \$3,075 and an automobile with a countable value of \$975, for a total of \$4,050. On 7/10, he withdrew \$125 from the bank for automobile repairs, reducing his resources to \$3,925. He is ineligible as of 7/1 and the change in resources during July does not affect his INELIGIBILITY. He has no allowable expenses on which to expend the excess resource. He remains ineligible in July. He may be eligible in August if his countable resources are \$4,000 or less on 8/1.~~

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~~O MR. E is a Categorically Needy individual who does not receive SSI. As of 3/1, he had a \$2,000 life insurance policy with a cash surrender value of \$800, a savings account valued at \$900 and an excluded automobile, for a total of \$1,700. On 3/5, he sold his automobile for \$1,000 and deposited the money in his savings account. His countable resources then amounted to \$2,700 (the sale of the car is considered a "converted" resource) and that is the amount he had as of 4/1. The increase in his resources does not affect his ELIGIBILITY for March. He is ineligible as Categorically Needy for~~

~~April, and is notified that he is Medically Needy. He has no allowable expenses on which he can expend excess resources. He will remain Medically Needy until the month following the month his resources are reduced to \$2,000 or less; i.e., he is not Categorically Needy for as long as the excess resources are retained and THROUGH the month that his resources are reduced to within the resource limit.~~

~~O MS. D applies for recertification on 5/1. She had \$3,700 in her savings account. On 5/3, she received a \$660 RSDI check which was directly deposited in her savings account. She is eligible for the month of May since the \$660 is income in the month of receipt. However, she retains the \$660, and consequently exceeds the resource limit for June 1, with total resources of \$4,360. She is notified on 6/2 that she is ineligible due to excess resources, and her case is closed effective June 13th. On June 20th, she enters the hospital. Her Medicare deductible is \$1,068 (the Part A deductible as of January 1, 2009). She opts to reduce her resources by Expending \$360 on the outstanding deductible for the hospital bill. She re-establishes~~

~~— eligibility effective June 20th.~~

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~~— O MS. I applies for recertification on 7/20. She had~~
~~— \$3,975 in her savings account as of 7/1. On 7/31, \$43~~
~~— in interest was added to her account, for a total of~~
~~— \$4,017. She is ELIGIBLE in July. As of 8/1, the~~
~~— interest is a cash resource and she is INELIGIBLE for~~
~~— August. She has no allowable expenses incurred or~~
~~— outstanding in August on which she can expend excess~~
~~— resources. On August 10th, she reduces her resources to~~
~~— below \$4,000 by purchase of a pair of shoes. She will~~
~~— NOT REGAIN eligibility for the month of August even~~
~~— though her resources are again within the resource~~
~~— limit.~~

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~~— The earliest she CAN REGAIN ELIGIBILITY is September 1,~~
~~— if her resources are within allowable limits as of the~~
~~— first moment of that month.~~

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~~— O MR. C applied on July 15th for help with a hospital bill~~
~~— of \$12,000 incurred between June 2nd and June 15th. He~~
~~— had total countable resources of \$6,485 on June 1st. He~~
~~— paid \$2,000 on June 29th toward the bill from his cash~~

~~resources, leaving countable resources of \$4,485 on July 1st. He was notified on July 30th that he was ineligible due to excess resources, and that he could reduce resources to establish eligibility. He expended an additional \$500 toward the hospital bill on August 20th. He presented verification of the expenditure and the reduced resources on August 25th, and was determined to be eligible effective July 1st in the ongoing period. He was ineligible for copayment of the balance of the hospital bill from June, because June is a retroactive month.~~

~~O MR. D has resources of \$6,500 on the first of July. He incurs allowable medical expenses of \$8,000 during a hospitalization from July 5th through July 20th. He applies for Medical Assistance on July 29th. He is rejected on August 10th due to excess resources and is apprised of the ability to reduce resources to establish eligibility. On August 20th, he purchases an excludable automobile for \$3,000, reducing his countable resources to \$3,500. He does NOT establish eligibility for July or August. He reapplies in September, has countable resources within the limit, and is otherwise eligible.~~

~~— He is accepted effective September 1st.~~

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~~— O MRS. P has resources of \$10,000 on August 1. She is
— hospitalized August 10th, incurring a bill of \$22,000
— between August 10th and August 17th. She files an
— application for Medical Assistance on August 30th. On
— September 12th, she is determined ineligible due to
— excess resources and notified of the possibility that
— she could reduce resources to become eligible. On
— September 15th, she paid \$6,000 toward the hospital
— bill. She was subsequently certified eligible effective
— August 10th.~~

~~0392.15.20 — Community Spouse Allocation~~

~~REV:01/2009~~

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~~Rhode Island is an income first state in which the income is first
examined as part of the allocation. If the institutionalized individual
has a community spouse, the individual may wish to allot an amount to
the community spouse for his/her support. In reviewing for eligibility,
DHS must consider all the income of the institutionalized spouse that
could be made available to a community spouse has been made
available before DHS allocates to the community spouse an amount of
resources adequate to provide the difference between the minimum
monthly maintenance needs allowance and all income available to the
community spouse. This is applicable to individuals who became
institutionalized individuals on or after February 8, 2006. Reference is
made to applying this Section to fair hearings, as found in Section
0380.40.35. The amount of the community spouse allocation is based on
the income already available to the community spouse. Thus, the~~

~~calculation of this allocation is preceded by a determination of the community spouse's income.~~

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~~If the institutionalized individual has a community spouse and other community dependents, s/he may choose in addition to the community spouse and can allocate only to his/her dependents.~~

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~~The maximum amount that may be taken from an institutionalized individual's income for the support of a spouse and dependents in the community is \$2,739.00 per month, except:~~

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~~—O— In the case of a court order for spousal support; or,~~

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~~—O— In the case of a court order or a finding by an
—— administrative hearing.~~

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~~The allocation to community spouse is based upon the gross income otherwise available to the community spouse. The income of the community spouse is determined in the same manner as gross income for purposes of eligibility determination. No disregards or deductions are applied to the community spouse's gross income in determining the allocation from the institutionalized spouse.~~

~~0396.15.10.05— Calculation of Income Allocation~~

~~REV:07/2011~~

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~~From the full gross income of a single individual the following amounts are deducted in order:~~

~~—o— Maintenance Needs Allowance~~

~~o Medical Insurance Premiums~~

~~o Allowable Costs Incurred for Medical or Remedial Care~~

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~~Any balance of income remaining after these expenses are deducted is allocated toward the cost of home-based services according to the plan developed with the Case Manager.~~

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~~EXAMPLE: Mr. Alonzo applies, is found eligible to receive home based services, and is Categorically Needy with income under the Federal Cap. He lives alone. His sole income from RSDI is \$1,134 per month.~~

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~~He has Medicare, but no other health insurance.~~

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~~His monthly allocation to the cost of services is as follows:~~

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~~RSDI Benefit \$1,134.00~~

~~Maintenance Needs 927.50~~

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~~Balance 206.50~~

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~~Medicare Premium 96.40~~

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~~Income Allocation \$110.10~~

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~~*NOTE: To qualify as Medically Needy, an individual must have income within the Medically Needy income limit or incur allowable medical expenses (including the anticipated cost of Waiver services) which exceed the amount of the individual's monthly income which is over the Medically Needy Income Limit.~~

~~0396.15.10.10 — Individual With Community Spouse/Dependent~~

~~REV:07/2011~~

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~~When an eligible individual lives with a spouse (or a parent in the case of a child with an ineligible parent), the individual is considered to be a single individual. The spouse's (or parent's) income is not considered in determining the amount the individual must pay for the cost of services.~~

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~~Deduct from the applicant's full, gross income the following amounts, in the order presented:~~

- ~~—o Maintenance Needs Allowance~~
- ~~—o Spousal and Dependent Allowance~~
- ~~—o Medical Insurance Premiums~~
- ~~—o Allowable Costs Incurred for Medical or Remedial Care~~

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~~EXAMPLE: Mrs. Quackenbush has been found eligible for home-based services as a Categorically Needy individual with income under the Federal Cap. She has income from RSDI of \$989.40, and a private pension of \$449.80, for a total income of \$1,439.20 monthly. Her husband has income of \$515.40 from RSDI. Each has Medicare and pays an SMI premium of \$96.40 monthly. Each also has Blue Cross Plan 65 at a monthly cost of \$117.47. Mrs. Quackenbush's monthly income allocation is as follows:~~

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~~—Total Gross Income— \$1,439.20~~

~~—Maintenance Needs— - 927.50~~

~~—Spouse Allowance— - 284.60~~

~~—Mrs. Q's premiums— - 213.87~~

~~—Income Applied~~

~~—to the Cost of Services \$ 13.23~~

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~~* The Spouse allowance is calculated as follows: MNIL \$800.00 less Mr. Q's gross income of \$515.40 results in a spousal allowance of \$284.60. Note that the gross amount of Mr. Q's income is deducted from the MNIL. There is no recognition of Mr. Q's medical insurance premiums.~~